

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA  
FLORENCE DIVISION

Lavanza C. Mack, #189340,	)	C.A. No. 4:09-275-TLW-TER
	)	
Petitioner,	)	
	)	
vs.	)	ORDER
	)	
State of South Carolina; and Raymond Reed,	)	
Warden of Manning Correctional Institution,	)	
	)	
Respondents.	)	
	)	

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This matter is now before the undersigned for review of the Report and Recommendation (“the Report”) filed by United States Magistrate Judge Thomas E. Rogers, III, on June 1, 2009. In his Report, Magistrate Judge Rogers recommends that the petition be dismissed for failure to prosecute, as petitioner did not file any response to the respondents’ motion for summary judgment. In response to the Report and Recommendation, petitioner has filed objections in which he indicates that “he chose not to submit a brief or argument because he felt the issues raised in his petition were sufficient for adjudication,” and that “[a]ny response filed would have only been an exercise in redundancy.” (Doc. # 19).

In conducting this review, the Court applies the following standard:

The magistrate judge makes only a recommendation to the Court, to which any party may file written objections. . . . The Court is not bound by the recommendation of the magistrate judge but, instead, retains responsibility for the final determination. The Court is required to make a de novo determination of those portions of the report or specified findings or recommendation as to which an objection is made. However, the Court is not required to review, under a de novo or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the Report and

Recommendation to which no objections are addressed. While the level of scrutiny entailed by the Court's review of the Report thus depends on whether or not objections have been filed, in either case, the Court is free, after review, to accept, reject, or modify any of the magistrate judge's findings or recommendations.

Wallace v. Housing Auth. of the City of Columbia, 791 F.Supp. 137, 138 (D.S.C. 1992) (citations omitted).

In light of this standard, the Court has reviewed, de novo, the Report and the objections thereto. Based on this additional filing by petitioner, this Court chooses not to accept the Report recommending dismissal for failure to prosecute at this time. This case is remanded to the Magistrate Judge for a supplemental Report and Recommendation to include a discussion of the merits of the case.

**IT IS SO ORDERED.**

s/ Terry L. Wooten  
**TERRY L. WOOTEN**  
**UNITED STATES DISTRICT JUDGE**

June 24, 2009  
Florence, South Carolina